

REMARKS

Claims 1-4, 6-9, 11 and 15-20 will be pending upon entry of the present amendment. Claims 5, 10 and 12-14 were previously canceled. Claim 20 is new. No new matter has been added. A Request for Continued Examination and a Petition to Revive are filed concurrently herewith.

The Examiner rejected claims 1-4, 6 and 7 under 35 USC Section 103(a) as obvious over Weitkamp (EP-1101934 A) in view of U.S. Patent No. 6,494,437 issued to Boyer, or alternatively as obvious over Weitkamp in view of U.S. Patent No. 3,829,064 issued to Jackson. The Examiner rejected claims 8, 9, 11 and 16-19 as obvious over Nickelsen (EP 1101936) in view of Boyer, or alternatively as obvious over Nickelsen in view of Jackson. Applicant respectfully traverses the Examiner's rejections.

Independent claim 1 recites, "[a] wind power installation comprising: a pylon having a head; a winch; at least one deflection roller; and at least one cable passage means in the region of the pylon head for passing therethrough a hauling cable from the winch, wherein the winch is mounted on a vehicle at the base of the wind power installation, without using a crane separate from the pylon to support the winch." Independent claim 6 recites, "[a] method of fitting/removing components of a wind power installation comprising: transporting a winch mounted on a transport vehicle to a base of the wind power installation, laying a hauling cable from the winch to at least one deflection roller in a region of a pylon head and further to a component to be fitted/removed, attaching the hauling cable to the component, and releasing and letting down or pulling up and fixing the component, wherein a crane separate from the pylon is not used to support the winch." Independent claim 8 recites, "[a] wind power installation, comprising: a pylon; a base; a pod; and means for moving an object with respect to the pod, wherein the means for moving an object with respect to the pod is at least partially contained within the pod and includes a winch mounted on a transport vehicle, wherein a crane separate from the pylon is not used to support the winch." Independent claim 16 recites, "[a] wind power installation, comprising: a pylon; a base; a pod; a cable guide in the pod; a blade mount opening in the pod; a winch mounted on a transport vehicle, wherein a crane separate from the pylon is not used to support the winch; and a cable coupled to the winch." New claim 20 recites, "[a]

wind power installation comprising: ... a cable guide in the pod; a blade mount opening in the pod; a winch mounted on a transport vehicle; and a cable coupled to the winch, wherein the cable guide in the pod is configured to guide the cable, the cable is configured to pass through the blade mount opening in the pod and the winch is configured to use the cable to lift and lower heavy components of the wind power installation without the use of a crane.”

Weitkamp, Alone or in Combination With Boyer, Does Not Render the Claims Obvious

The Examiner first relies on Weitkamp and Boyer. Weitkamp discloses a winch 60 which is permanently mounted to a pylon foundation. There is a single structure which comprises the winch, the foundation, the tower, the crane arms and its ends. See Figure 3 of Weitkamp. In Boyer, a winch is mounted on a boom of a host vehicle. Thus Weitkamp and Boyer both teach complete lifting systems with all the components connected together in a single structure, and thus both teach away from the claimed subject matter. In contrast, independent claims 1 and 6 are directed to systems in which the winch and the supporting structure are separate, and in which the winch is not supported by a crane separate from the pylon. One would not be motivated to combine Weitkamp and Boyer because there is no need in Weitkamp for the boom of Boyer (and no need in Boyer for the winch of Weitkamp), and because coupling the boom of Boyer to the winch of Weitkamp would be complicated, which is contrary to the simple structure of Weitkamp. Accordingly, Applicant submits that claims 1 and 6 are not rendered obvious by Weitkamp, alone or in combination with Boyer. Claims 2-4 depend from claim 1, and claim 7 depends from claim 6, and are thus allowable at least by virtue of their dependencies, as well as because of the novel and non-obvious combinations claimed therein.

Applicant also notes that the Examiner has pointed to admitted prior art as teaching that it is well known to transport a winch to an installation for raising and lower components. The Examiner then reasons that it would have been obvious to use the winch of Boyer to raise and lower component into the wind power installation. The Examiner appears to be referring to the following portion of the description of the prior art:

Wind power installations have long been known. The considerable dimensions and weights of modern installations means that on the one hand components frequently have to be transported individually to the building site. There the

components are then fitted together. In that respect in the meantime loads of 50 tons and more certainly have to be lifted.

On the other hand loads also have to be lifted to a considerable height of over 100 meters. Admittedly winches are known in wind power installations, but those winches are mostly disposed in the rear part of the pod of the wind power installation.

Substitute Spec. at page 1, lines 8-16. See also Original Spec. at page 1, lines 7-15.

This portion of the specification is not an admission that it was known to use a winch mounted on a transport vehicle to raise and lower components, as the Examiner appears to suggest. Further, as discussed in more detail above, Boyer discloses a complete lifting system on the vehicle. One would not be motivated to combine the boom of Boyer with the winch of Weitkamp.

The Examiner also contends that the combination of Weitkamp and Boyer would be inherently capable of performing the method as claimed. Any such contention is respectfully traversed. Claim 1 recites "wherein the winch is mounted on a vehicle at the base of the wind power installation, without using a crane separate from the pylon to support the winch." Claim 6 recites, "transporting a winch mounted on a transport vehicle to a base of the wind power installation, ... wherein a crane separate from the pylon is not used to support the winch." In Weitkamp, the winch is not mounted on a vehicle. In Boyer, the winch is mounted on the boom on the vehicle. Thus, contrary to the Examiner's contention, neither the winch of Weitkamp nor the winch of Boyer satisfies the limitations of the claimed winch. In addition, inherency is not established by showing that a combination of references could be modified to perform a recited method. This, whether the combined references would be "capable" of performing a method as claimed (they are not) does not establish that it would have been obvious to combine the references and then further modify the combination to perform the recited method of claim 6.

In response to Applicant's arguments, the Examiner argues that "completeness of the inventions disclosed in the prior art has no bearing on the rejections." Applicant respectfully disagrees. When rendering an obviousness rejection, the Examiner is required to consider whether each reference as a whole teaches away from the claimed invention. A prior art reference must be considered in its entirety, *i.e.*, as a whole, including portions that would lead away from the claimed invention. M.P.E.P. § 2141.02(VI); *W.L. Gore & Associates, Inc. v.*

Garlock, Inc., 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Here, Weitkamp and Boyer both teach complete lifting systems with all the components connected together in a single structure, and thus both teach away from the claimed subject matter. In contrast, independent claims 1 and 6 are directed to systems in which the winch and the supporting structure are separate.

Weitkamp, Alone or in Combination With Jackson, Does Not Render the Claims Obvious

The Examiner next relies on Weitkamp and Jackson. The winch and vehicle of Jackson are designed for pulling or towing work. Jackson is not intended to or suitable for lifting components, and would be inherently unstable if modified for use to lift components. In particular, the components of a wind power installation can weigh between several tons and 20 twenty tons. The winch of Jackson would either separate from the vehicle, or the entire vehicle would be winched up the cable. In addition, Weitkamp already has a winch inside the pylon, and one would not be motivated to replace it with the inadequate winch of Jackson outside the pylon. Accordingly, Applicant submits that claims 1 and 6 are not rendered obvious by Weitkamp, alone or in combination with Jackson. Claims 2-4 depend from claim 1, and claim 7 depends from claim 6, and thus claims 2-4 and 7 are allowable at least by virtue of their dependencies, as well as because of the novel and non-obvious combinations claimed therein.

The Examiner's arguments regarding the allegedly admitted prior art is addressed above.

The Examiner also contends that the combination of Weitkamp and Jackson would be inherently capable of performing the method of claim 6. Any such contention is respectfully traversed. Claim 6 recites, "laying a hauling cable from the winch to at least one deflection roller in a region of a pylon head and further to a component to be fitted/removed, attaching the hauling cable to the component, and releasing and letting down or pulling up and fixing the component." The vehicle, frame and winch of Jackson would be inherently incapable of performing the reciting letting down or pulling up of the claims.

In response, the Examiner argues there are no limitations regarding the vehicle in the claims, and thus the argument that the vehicle of Jackson is unsuitable is irrelevant. Applicant respectfully disagrees for at least four reasons. First, the claims also recite limitations

of the winch, and the winch of Jackson is both unsuitable for the recited functions and configured to perform a very different task. Second, the Examiner relies on the alleged admission of prior art, which is addressed above. Third, the very different use to which the vehicle/winch combination of Jackson was put is a factor to be considered when deciding whether one of skill in the art of windpower installations would consider combining Jackson with Weitkamp. Fourth, the Examiner is required to consider whether the references as a whole teach away from claimed invention. Weitkamp and Jackson both teach complete structures for their respective purposes, thus both teach away from systems in which the winch and the supporting structure are separate.

Nickelson, Alone or in Combination With Boyer, Does Not Render the Claims Obvious

The Examiner next relies on Nickelsen in view of Boyer. Nickelsen and Boyer both disclose complete lifting systems, with all the components connected together in a single structure, and thus both teach away from the claimed subject matter. In contrast, independent claims 8 and 16 are directed to systems in which the winch and the supporting structure are separate, and in which the winch is not supported by a crane separate from the pylon. One would not be motivated to combine Nickelsen and Boyer because there is no need in Nickelsen for the boom of Boyer (and no need in Boyer for the winch of Nickelsen). Accordingly, Applicant submits that claims 8 and 16 are not rendered obvious by Nickelsen, alone or in combination with Boyer. Claims 9, 11, 15, 17 and 18 depend from claim 8, and claim 19 depends from claim 16, and are thus allowable at least by virtue of their dependencies, as well as because of the novel and non-obvious combinations claimed therein. The Examiner's arguments regarding the allegedly admitted prior art, inherency, and the relevancy of the completeness of the cited references are addressed above.

With regard to claim 16, the Examiner noted that the host vehicle for the winch is not a crane. Applicant is not certain what the Examiner meant, but notes that in Boyer, the winch is mounted to a boom on the host vehicle.

Nickelson, Alone or in Combination With Jackson, Does Not Render the Claims Obvious

The Examiner also relies on Nickelsen in view of Jackson. The winch and vehicle of Jackson are designed for pulling or towing work. Jackson is not intended to or suitable for

lifting components, and would be inherently unstable if modified for use to lift components. In particular, the components of a wind power installation can weigh between several tons and 20 twenty tons. The winch of Jackson would either separate from the vehicle, or the entire vehicle would be winched up the cable. In addition, Nickelsen already has a winch, and one would not be motivated to replace it with the inadequate winch of Jackson. Accordingly, Applicant submits that claims 8 and 16 are not rendered obvious by Nickelsen, alone or in combination with Jackson. Claims 9, 11, 15, 17 and 18 depend from claim 8, and claim 19 depends from claim 16, and are thus allowable at least by virtue of their dependencies, as well as because of the novel and non-obvious combinations claimed therein.

New claim 20 is allowable over the cited references for reasons that will be apparent in view of the allowability of claims 8 and 16.

Claim 16 Is Supported by the Specification as Filed

The Examiner rejected claim 16 under 35 USC Section 112, first paragraph, as containing new matter. The Examiner's rejection is respectfully traversed.

Specifically, the Examiner contends the language "a crane separate from the pylon is not used to support the winch." There is a strong presumption that the specification contains an adequate disclosure as filed and the Examiner has the burden of presenting evidence or reasons why one of skill in the art would not recognize that the written description provides support for the claims. MPEP 2163(II). Further, there is no *in haec verba* requirement. MPEP 2163. The specification as originally filed recites "In that way it is possible to use a sufficiently strong winch with a sufficiently load-bearing hauling cable for lifting and lowering heavy components so that even such components can be fitted or replaced without the use of a crane." See Pages 2:33 to 3:3 (and the Substitute Specification at 3:9-11). Accordingly, the Examiner is respectfully requested to withdraw this basis for rejection.

Application No. 10/516,570
Reply to Office Action dated May 12, 2009

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,
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